

1 COOLEY LLP
2 MATTHEW D. BROWN (Cal. Bar No. 196972)
(brownmd@cooley.com) (*admitted pro hac vice*)
3 AMY M. SMITH (Cal. Bar No. 287813)
(amsmith@cooley.com) (*admitted pro hac vice*)
4 101 California Street, 5th Floor
San Francisco, CA 94111-5800
5 Telephone: (415) 693-2000
Facsimile: (415) 693-2222

6 CHRISTOPHER DURBIN (WSBA No. 41159)
(cdurbin@cooley.com)
7 1700 Seventh Avenue
Suite 1900
8 Seattle, WA 98101-1355
Telephone: (206) 452-8700
9 Facsimile: (206) 452-8800

10 Attorneys for Defendant
KROMTECH ALLIANCE CORPORATION

11
12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF WASHINGTON

14 RIVER CITY MEDIA, LLC, a
Wyoming limited liability company,
15 MARK FERRIS, an individual,
MATT FERRIS, an individual, and
16 AMBER PAUL, an individual,

17 Plaintiffs,

18 v.

19 KROMTECH ALLIANCE
CORPORATION, a German
20 corporation, CHRIS VICKERY, an
individual, CXO MEDIA, INC., a
21 Massachusetts corporation,
INTERNATIONAL DATA
22 GROUP, a Massachusetts
corporation, and STEVE RAGAN,
23 an individual, and DOES 1-50,

24 Defendants.

Case No. 2:17-cv-00105-SAB

**SUPPLEMENTAL DECLARATION OF
SERGII SOSNIAK IN SUPPORT OF
DEFENDANT KROMTECH ALLIANCE
CORPORATION'S MOTION TO DISMISS
PLAINTIFFS' CLAIMS**

1 I, Sergii Sosniak, hereby declare as follows:

2 1. I am the Chief Executive Officer of Defendant Kromtech Alliance
3 Corporation (“Kromtech”), where I have worked for more than three (3) years.
4 Except as otherwise noted, I have personal knowledge of the following facts and if
5 called to testify could and would testify competently thereto.

6 2. Paragraph 4 of the Declaration of Jason Bernstein in Support of
7 Plaintiffs’ Opposition to Kromtech’s Motion to Dismiss (“Bernstein Decl.”) states
8 that “Kromtech advertises its products and services in Washington newspapers,
9 including paying for advertising space on www.seattlepi.com.” (Bernstein Decl. ¶ 4
10 (ECF No. 50 at 1).) Plaintiffs did not attach a copy or screenshot of the advertisement
11 they claim appeared on www.seattlepi.com, or provide any description of what the
12 advertisement contained or when it allegedly appeared.

13 3. Kromtech advertises its products through Yahoo. Yahoo determines
14 which websites will display Kromtech’s advertising. Seattle Post-Intelligencer
15 (“Seattle PI”) uses Yahoo to place ads on its website. (*See* Seattle PI, “About Our
16 Ads,” <http://www.seattlepi.com/advertising/> (“Yahoo! is an ad network partner that
17 displays ads on our Web Site.”) (last visited August 1, 2017).) A true and correct
18 copy of Seattle PI’s “About Our Ads” webpage is attached as **Exhibit C** to this
19 declaration. Kromtech did not directly contract with Seattle PI or any Washington
20 newspapers to buy advertising space, and did not direct Yahoo to display any
21 advertisements on SeattlePI.com, or in any other Washington newspaper. Any ads
22 that may have appeared on SeattlePI.com would have been placed by Yahoo, not
23 Kromtech.

24 4. Paragraph 5 of the Bernstein Declaration states that “Kromtech has also
25 published advertisements in the form of a press release on a Spokane, Washington
26 news station website. *See* ‘Chargeberry – ute App to Extend MacBook Battery Life,’
27 available at [www.khq.com/story/35606845/chargeberry-ute-app-to-extend-](http://www.khq.com/story/35606845/chargeberry-ute-app-to-extend-macbook-battery-life)
28 macbook-battery-life, last visited July 6, 2017.” (Bernstein Decl. ¶ 5 (ECF No. 50 at

1 1.) The website link in the Bernstein Declaration does not work. The KHQ.com
2 website displays the following error message each time I try to navigate to that link:
3 “Our Apologies. The page you requested is currently unavailable. . . .” Plaintiffs did
4 not attach a copy or screenshot of the press release they claim appeared on KHQ.com,
5 or provide any description of what the press release contained or when it allegedly
6 appeared.

7 5. Kromtech issued a press release about its product, Chargeberry, on
8 June 7, 2017, entitled “Chargeberry – Cute App to Extend MacBook Battery Life,”
9 on PRWeb.com, an online news wire service. PRWeb determines which websites
10 will display Kromtech’s press releases, including the June 7 press release regarding
11 Chargeberry that Plaintiffs claim appeared on KHQ.com. Kromtech did not directly
12 contract with any Washington websites to buy advertising space or display this press
13 release, and did not direct PRWeb to display this press release on KHQ.com or any
14 other Washington website. Any instances of this press release that may have
15 appeared on KHQ.com would have been placed by PRWeb, not Kromtech. A true
16 and correct copy of this press release is attached as **Exhibit D** to this declaration, and
17 is available at <http://www.prweb.com/releases/2017/06/prweb14395587.htm> (last
18 visited August 1, 2017).

19 6. Kromtech does not do any advertising for the MacKeeper Security
20 Research Center blog.

21 7. No one from Kromtech or the MacKeeper Security Research Center was
22 aware that River City Media had any operations in Washington until Plaintiffs filed
23 this lawsuit.

24 8. In their Opposition, Plaintiffs claim that Chris Vickery “published
25 information provided to him by *Kromtech’s* ‘team of investigators’ from *Kromtech’s*
26 Research Center.” (Opp. 17 (ECF No. 49 at 17).) As Vickery explains in his article,
27 he is the one who discovered the exposed files from Plaintiffs’ system. No one from
28 Kromtech or the MacKeeper Security Research Center accessed Plaintiffs’ systems

1 or information, or provided Vickery with any information about Plaintiffs' systems.

2 I declare under penalty of perjury under the laws of the United States that the
3 foregoing is true and correct. Executed on August 2, 2017.

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5 /s/ Sergii Sosniak
6 Sergii Sosniak
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SIGNATURE ATTESTATION

I, Christopher B. Durbin, attest that concurrence in the filing of this document has been obtained from the other signatory. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 3rd day of August, 2017 in Seattle, Washington.

/s/ Christopher B. Durbin
Christopher B. Durbin

DECLARATION OF SERVICE

I hereby certify that on August 3, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Leeor Neta
leeor@newmanlaw.com

Attorneys for Plaintiffs

Jason E. Bernstein
jake@newmanlaw.com

Attorney for Plaintiffs

Charles L. Babcock
cbabcock@jw.com

Attorneys for Defendants
International Data Group, Inc.,
CXO Media, Inc. and Steve Ragan

William J. Stowe
wstowe@jw.com

Attorneys for Defendants
International Data Group, Inc.,
CXO Media, Inc. and Steve Ragan

Kevin J. Curtis
kjc@winstoncashatt.com

Attorneys for Defendants
International Data Group, Inc.,
CXO Media, Inc. and Steve Ragan

Aaron V. Rocke
aaron@rocklaw.com

Attorneys for Defendant
Chris Vickery

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my belief.

Signed and dated this 3rd day of August, 2017, in Seattle, Washington.

/s/ Christopher B. Durbin

Christopher B. Durbin (WSBA No. 41159)